

**ASSEMBLY BILL**

**No. 2282**

**Introduced by Assembly Member Oropeza**

February 22, 2006

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An act to amend Section 650 of the Business and Professions Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2282, as introduced, Oropeza. Federally-qualified health centers.

Existing law, with certain exceptions, prohibits the offer, delivery, receipt, or acceptance by any healing arts licensee regulated by the Business and Professions Code or under the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, as compensation or an inducement for referring patients, clients, or customers to any person. A violation of this provision is a crime.

This bill would provide that the offer, delivery, receipt, or acceptance of any consideration between a federally-qualified health center, as defined, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center is not unlawful if the transaction otherwise is consistent with a specified federal law and meets certain requirements, including contributing to the ability of the health center to maintain or increase the availability or enhance the quality of services provided to a medically underserved population.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 650 of the Business and Professions Code is amended to read:

650. Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

*The offer, delivery, receipt, or acceptance of any consideration between a federally-qualified health center, as defined in Section 1396d(1)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall not be unlawful if the transaction otherwise meets the requirements of the safe harbor from the federal anti-kickback statute in Section 1320a-7b(b)(3) of Title 42 of the United States Code and regulations adopted thereunder.*

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory,

1 pharmacy, clinic (including entities exempt from licensure  
2 pursuant to Section 1206 of the Health and Safety Code), or  
3 health care facility solely because the licensee has a proprietary  
4 interest or coownership in the laboratory, pharmacy, clinic, or  
5 health care facility; provided, however, that the licensee's return  
6 on investment for that proprietary interest or coownership shall  
7 be based upon the amount of the capital investment or  
8 proportional ownership of the licensee which ownership interest  
9 is not based on the number or value of any patients referred. Any  
10 referral excepted under this section shall be unlawful if the  
11 prosecutor proves that there was no valid medical need for the  
12 referral.

13 "Health care facility" means a general acute care hospital,  
14 acute psychiatric hospital, skilled nursing facility, intermediate  
15 care facility, and any other health facility licensed by the State  
16 Department of Health Services under Chapter 2 (commencing  
17 with Section 1250) of Division 2 of the Health and Safety Code.

18 A violation of this section is a public offense and is punishable  
19 upon a first conviction by imprisonment in the county jail for not  
20 more than one year, or by imprisonment in the state prison, or by  
21 a fine not exceeding fifty thousand dollars (\$50,000), or by both  
22 that imprisonment and fine. A second or subsequent conviction is  
23 punishable by imprisonment in the state prison or by  
24 imprisonment in the state prison and a fine of fifty thousand  
25 dollars (\$50,000).